

Senate Bill 327

By: Senators Thompson of the 33rd and Thomas of the 54th

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change certain provisions relating to suspension or revocation of the licenses of habitually negligent or dangerous drivers and the point system; to change certain provisions relating to drivers' exercise of due care; to prohibit the practice of text messaging while operating a motor vehicle; to prohibit use of cell phones other than hands-free devices while operating a motor vehicle; to provide penalties for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension or revocation of the licenses of habitually negligent or dangerous drivers and the point system, as follows:

"(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

Aggressive driving.	6 points
Reckless driving.	4 points
Unlawful passing of a school bus.	6 points
Improper passing on a hill or a curve.	4 points
Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour.	2 points
Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour.	3 points
Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour.	4 points
Exceeding the speed limit by 34 miles per hour or more.	6 points

27	Disobedience of any traffic-control device or traffic officer.	3 points
28	Too fast for conditions.	0 points
29	Possessing an open container of an alcoholic beverage while driving.	2 points
30	Failure to adequately secure a load, except fresh farm produce,	
31	resulting in loss of such load onto the roadway which results in	
32	an accident.	2 points
33	Violation of child safety restraint requirements, first offense.	1 point
34	Violation of child safety restraint requirements, second or	
35	subsequent offense.	2 points
36	<u>Violation of text messaging or usage of cell phone requirements,</u>	
37	<u>first offense.</u>	<u>1 point</u>
38	<u>Violation of text messaging or usage of cell phone requirements,</u>	
39	<u>second or subsequent offense.</u>	<u>2 points</u>
40	All other moving traffic violations which are not speed limit	
41	violations.	3 points"

42 **SECTION 2.**

43 Said title is further amended by revising Code Section 40-6-241, relating to drivers' exercise
44 of due care and proper use of radios and mobile telephones, as follows:

45 "40-6-241.

46 A driver shall exercise due care in operating a motor vehicle on the highways of this state
47 and shall not engage in any actions which shall distract such driver from the safe operation
48 of such vehicle, provided that the proper use of a radio, or citizens band radio, ~~or mobile~~
49 ~~telephone~~ shall not be a violation of this Code section."

50 **SECTION 3.**

51 Said title is further amended by inserting a new Code section to read as follows:

52 "40-6-241.1.

53 (a) As used in the Code section, the term:

54 (1) 'Wireless telecommunications device' means a cellular telephone, a text-messaging
55 device, a personal digital assistant, a stand alone computer, or any other substantially
56 similar wireless device that is readily removable from the vehicle and is used to write,
57 send, or read text or data through manual input. A 'wireless telecommunications device'
58 shall not include any device or component that is permanently affixed to a motor vehicle.
59 It does not include citizens band radios, citizens band radio hybrids, commercial two-way
60 radio communication devices, or electronic communication devices with a push-to-talk
61 function.

(2) 'Write, send, or read a text-based communication' means using a wireless telecommunications device to manually communicate with any person by using a text-based communication referred to as a text message, instant message, or electronic mail.

(b) Except as provided in subsection (c) of this Code section, no person shall operate any motor vehicle upon any public road or highway of this state while using a wireless telecommunications device to write, send, or read a text-based communication. For purposes of this Code section, except as otherwise provided for in Code Section 40-6-241.2, a person shall not be deemed to be writing, reading, or sending a text-based communication if the person reads, selects, or enters a telephone number or name in a wireless telecommunications device for the purpose of making a telephone call.

(c) The provisions of this Code section shall not apply to:

(1) Any law enforcement officer, firefighter, or operator of an authorized emergency vehicle while engaged in the actual performance of his or her official duties;

(2) An operator of a moving motor vehicle using a wireless telecommunications device to:

(A) Report illegal activity;

(B) Summon medical or other emergency help;

(C) Prevent injury to a person or property;

(D) Relay information between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle; or

(E) Navigate using a global positioning system; or

(3) A physician or other health care provider using a wireless telecommunications device to communicate with a hospital, health clinic, or the office of the physician, or to otherwise provide for the health care of an individual or medical emergency through a text-based communication.

(d)(1) The first violation of the provisions of this Code section shall be punishable by a fine of not more than \$175.00.

(2) Each subsequent violation shall be punishable by a fine of not more than \$500.00.

(3) If the operator of the moving motor vehicle is involved in an accident at the time of a violation of this Code section, then the fine shall be equal to double the amount of the standard fine imposed in paragraphs (1) and (2) of this subsection and the law enforcement officer investigating the accident shall indicate on the written accident form that such operator was using a wireless telecommunications device at the time of the accident.

(4) Any violation of this Code section is a primary offense and shall constitute a moving violation."

SECTION 4.

Said title is further amended by inserting a new Code section to read as follows:

"40-6-241.2.

(a) As used in the Code section, the term:

(1) 'Hands-free device' means a wireless communications device designed so that calls may be initiated and conducted without being touched or moved by the hands.

(2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is readily removable from the vehicle and is used to initiate or receive a telephone call. A 'wireless telecommunications device' shall not include any device or component that is permanently affixed to a motor vehicle. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, or electronic communication devices with a push-to-talk function.

(b) Except in a driver emergency and as provided in subsection (c) of this Code section, no person shall operate a motor vehicle on any public road or highway of this state while using any wireless telecommunications device to engage in a telephone call; provided, however, that a driver may initiate, receive, and engage in calls through the use of a hands-free device.

(c) The provisions of this Code section shall not apply to a person who uses a wireless telecommunications device to do any of the following:

(1) Report a traffic accident, medical emergency, or serious road hazard;

(2) Report a situation in which the person believes his or her personal safety is in jeopardy;

(3) Report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or

(4) Engage in a call while the motor vehicle is lawfully parked.

(d)(1) The first violation of the provisions of this Code section shall be punishable by a fine of not more than \$175.00.

(2) Each subsequent violation shall be punishable by a fine of not more than \$500.00.

(3) If the operator of the moving motor vehicle is involved in an accident at the time of a violation of this Code section, then the fine shall be equal to double the amount of the standard fine imposed in paragraphs (1) and (2) of this subsection and the law enforcement officer investigating the accident shall indicate on the written accident form that such operator was using a wireless telecommunications device at the time of the accident.

137 **SECTION 5.**
138 All laws and parts of laws in conflict with this Act are repealed.

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